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NOTICE OF ALLOWANCE AND FEE(S) DUE

43935

7590

07/21/2009

FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

EXAMINER

HESS, DANIEL A

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 07/21/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,912	02/27/2006	Joel Gaillard	I-37992	6905

TITLE OF INVENTION: PORTABLE ELECTRONIC DEVICE CAPABLE OF ALTERNATE DATA CONVEYANCE OPERATIONS RESPONSIVE TO AN INVARIABLE ACTIVATION COMMAND

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$300	\$0	\$1055	10/21/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE** OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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43935 7590 07/21/2009

FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,912 02/27/2006

Joel Gaillard

I-37992

6905

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nonprovisional	YES	\$755	\$300	\$0	\$1055	10/21/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
HESS, DANIEL A	2876	235-492000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB-122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB-47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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Date _____

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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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FRASER CLEMENS MARTIN & MILLER LLC 28366 KENSINGTON LANE PERRYSBURG, OH 43551			HESS, DANIEL A.	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 07/21/2009

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 781 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 781 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/552,912

Examiner

DANIEL A. HESS

Applicant(s)

GAILLARD, JOEL

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to interview of 7/10/2009.
2. ☒ The allowed claim(s) is/are 1-3, 5-11 and 13-15.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

This action is responsive to interview conducted with applicant on 7/10/2009, which has been entered into the electronic file of record.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mike Dockins on 7/10/2009.

IN THE CLAIMS:

1. (Currently Amended) A portable electronic device, comprising:
 - an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output;
 - a control device operatively linked to said electronic circuit, with an invariable activation command being issued when said control device is selectively triggered;
 - a user interface device operatively linked to said electronic circuit;
 - a data transceiver operatively linked to said electronic circuit being for exchanging data between said electronic circuit and an external data exchange device, and for a cue receiver for receiving a selectively emitted activation cue from a source external to said portable electronic device;
 - a data conveyance switching element operatively linked to said electronic circuit, said

switching element being in an activated state upon an activation cue having been received by said ~~eue-receiver~~ data transceiver, and being in an inactive state when no activation cue was received by said ~~eue-receiver~~ data transceiver; and power means for providing power to said portable electronic device; wherein upon said control device being selectively triggered to issue and invariable activation command;

if said switching element is in said activated state, a data exchange will be initiated through the instrumentality of said data transceiver for exchanging data between said electronic circuit and an external data exchange device;

if said switching element is in said inactive state, data will be conveyed from said electronic circuit to said user interface device for communicating information to the portable electronic device holder.

2. (Original) A portable electronic device as defined in claim 1, wherein said user interface device is a display screen.

3. (Currently Amended) A portable electronic device as defined in claim 1, wherein said data transceiver comprises a data transmitter, ~~and~~ a data receiver distinct from said data transmitter, and a cue receiver distinct from said data receiver.

4. (Cancelled)

5. (Original) A portable electronic device as defined in claim 1, wherein said control device is a biometric parameter detector.

6. (Original) A portable electronic device as defined in claim 5, wherein said biometric parameter detector is a fingerprint scanner capable of obtaining a fingerprint scan, and whereby said control device is triggered when the fingerprint scan matches a fingerprint image pre-saved in said electronic circuit.

7. (Original) A portable electronic device as defined in claim 1, wherein said control device is a manually activated button, and whereby said control device is triggered when the button is pressed.

8. (Original) A portable electronic device as defined in claim 1, wherein said electronic circuit comprises said switching element.

9. (Original) A portable electronic device as defined in claim 8, wherein said electronic circuit comprises a microchip, and wherein said switching element is a series of instructions programmed onto said microchip.

10. (Currently Amended) A portable electronic device as defined in claim 1, wherein said switching element comprises a ~~decisional~~ logical circuit.

11. (Currently Amended) A data exchange system comprising:

- a data exchange device comprising a first electronic circuit, a first data transceiver and a cue emitter; and

- a portable electronic device, comprising:

 - a second electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output;

 - a control device operatively linked to said second electronic circuit, with an invariable activation command being issued when said control device is selectively triggered;

 - a user interface device operatively linked to said second electronic circuit;

 - a second data transceiver operatively linked to said second electronic circuit;

 - a data conveyance switching element operatively linked to said second electronic circuit, and switching element being in an activated state upon an activation cue having been received

 - by said ~~cue-receiver~~ second data transceiver, and being in an inactive state when no activation cue was received by said ~~cue-receiver~~ second data transceiver; and

 - power means for providing power to said portable electronic device;

 - wherein upon said control device being selectively triggered to issue said invariable

activation command:

if said switching element is in its activated state, a data exchange will occur between said first data transceiver and said second data transceiver, thereby exchanging data between said data exchange device and said portable electronic device;

if said switching element is in its inactive state, data is forwarded to said user interface device for communicating information to the portable electronic device holder.

12. (Cancelled)

13. (Original) A method for data exchange with a portable electronic device of the type comprising; an electronic circuit capable of storing data therein, capable of processing data, and capable of data input and output, a control device operatively linked to said circuit, a user interface device operatively linked to said circuit, communication ports operatively linked to said circuit, a switching element operatively linked to said electronic circuit and being in a default inactive state, and power means for providing power to said portable electronic device, said method comprising the steps of:
- awaiting for an activation cue to be received at a predetermined one of said communication ports;
- if an activation cue is received at one of said communication ports, changing the state of said switching element from its default inactive state to an activated state; and
- selectively triggering said control device to issue an invariable activation command, whereby said method will further comprise one of the two following steps:
- if said switching element is in its activated state, initiating a data exchange with an external data exchange device through at least one of said communication ports; and
- if said switching element is in its inactive state, conveying data from said electronic circuit to said user interface device for communicating information to the portable electronic device holder.

14. (Original) A method as defined in claim 13, wherein said activation cue is received at one of said communication ports distinct from another one of said communication ports used for data exchange with the external data exchange device.

15. (Original) A method as defined in claim 13, wherein the additional following step occurs after selectively triggering said control device if said switching element is in said activated state: conveying data from said electronic circuit to said user interface device for communicating information to the portable electronic device holder.

Allowable Subject Matter

Claims 1-3, 5-11 and 13-15 are allowed for reasons that have already been made clear on the record. The only rejected claim of the previous office action, claim 12, has been cancelled according to the wishes of the applicant. Other amendments were to bring the claims in line with amended claims in a related international filing. They generally do not broaden the scope of the claims.

To reiterate:

The examiner specifically addresses the prior art of Riemschneider et al. (DE 101 46 804A) which was cited against a number of the claims in a PCT action. The examiner located an English version, WO 03027949A1 which is included herewith.

The examiner carefully reviewed that reference including those figures referenced in the International action and found no evidence of all of the limitations being met including the control device being selectively triggered to issue the invariable activation command such that if the switching element is in the activated state, a data exchange will be initiated through the

instrumentality of the data transceiver for exchanging data between the electronic circuit and an external data exchange device and if the switching element is in the inactive state, data will be conveyed from the electronic circuit to the user interface device for communicating information to the portable electronic device holder.

Elsewhere, the prior art fails to teach or fairly suggest the above limitation in the context of all other limitations present in the claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL A. HESS whose telephone number is (571)272-2392. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/552,912
Art Unit: 2876

Page 8

/Daniel A Hess/
Primary Examiner, Art Unit 2876